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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/869,589	06/05/1997	CHRISTOPHER HUGH STROLLE	SAR-12082	5936

28166 7590 04/27/2004

MOSER, PATTERSON & SHERIDAN, LLP  
/SARNOFF CORPORATION  
595 SHREWSBURY AVENUE  
SUITE 100  
SHREWSBURY, NJ 07702

EXAMINER

BURD, KEVIN MICHAEL

ART UNIT	PAPER NUMBER
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2631

DATE MAILED: 04/27/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

08/869,589

Applicant(s)

STROLLE, CHRISTOPHER HUGH

Examiner

Kevin M Burd

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-8, 11, 13 and 14 is/are allowed.
- 6) ☒ Claim(s) 1, 9, 10, 12, 15, 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

1. This office action, in response to the amendment and request for continued examination, is a final office action.

***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 4/1/2004 has been entered.

***Response to Arguments***

3. Applicant's arguments filed 4/1/2004 have been fully considered but they are not persuasive. Applicant states Norrell fails to disclose a pre-equalizer for adjusting the amplitudes of the bandedges such that the amplitudes of the bandedges are made equal. However, On page 8 of the board decision, second paragraph, the board of appeals states "We previously found in connection with claims 1 and 12 that Norrell discloses amplitude equalization of the bandedges. Amplitude equalization means

attenuating or amplifying to make the amplitudes equal." Therefore claims 1, 9, 10, 12, 14 and 15 are rejected as stated below.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 9, 10, 12, 15 and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Norrell et al (US 5,793,821).

Regarding claims 1 and 12, Norrell et al (Norrell) disclose an apparatus for equalizing the amplitudes of a signal (column 7 line 65 to column 8 line 2). The apparatus includes a timing interpolation filter (figure 5 item 504) for providing samples for the upper and lower bandedge filters (column 8 lines 7-14) and a delay line (figure 5 item 506) which is part of the modem receiver's adaptive equalizer (column 9 lines 34-35) where the delay line is long enough to compensate for the amplitude and delay distortion in general, it is long enough to compensate for the differential delay distortion at a particular pair of frequencies (column 9 lines 43-48). Upper and lower bandedge filters which extracts the bandedge signal are disclosed in figure 5, items 508 and 512. A signal processor (figure 5 item 518-530 and column 8 lines 50-67) provides a control signal to the filters to remove noise and interference to compensate for the amplitude distortions. The decision on appeal filed 2/11/2004 states "We previously found in

connection with claims 1 and 12 that Norrell discloses amplitude equalization of the bandedges. Amplitude equalization means attenuating or amplifying to make the amplitudes equal."

Regarding claim 9, 10, 15 and 16, Norrell further discloses an apparatus and method for equalizing the amplitudes of the bandedges of a broadband signal as stated above in paragraph 4. Through the course of compensating for the effects of amplitude distortion, the bandedge signals must be attenuated and amplified.

***Allowable Subject Matter***

5. Claims 2-8, 11, 13 and 14 are allowed.

***Conclusion***

6. This is a RCE of applicant's earlier Application No. 08/869,589. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Contact Information***

**Any response to this final action should be mailed to:**

**Box AF**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

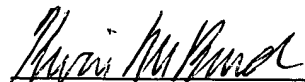
**or faxed to:**

(703) 872-9314, (for formal communications; please mark "EXPEDITED PROCEDURE" or for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA. Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Burd, whose telephone number is (703) 308-7034. The Examiner can normally be reached on Monday-Thursday from 9:00 AM - 6:00 PM.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3800.



Kevin M. Burd  
PATENT EXAMINER  
4/26/2004